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108TH CONGRESS
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S. 351

[Report No. 108–3]

To amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2003

Mr. GRASSLEY, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Armed Forces Tax Fairness Act of 2003”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents for
 5 this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.

Sec. 102. Exclusion from gross income of certain death gratuity payments.

Sec. 103. Exclusion for amounts received under Department of Defense Homeowners Assistance Program.

Sec. 104. Expansion of combat zone filing rules to contingency operations.

Sec. 105. Modification of membership requirement for exemption from tax for certain veterans' organizations.

Sec. 106. Clarification of treatment of certain dependent care assistance programs.

Sec. 107. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.

Sec. 108. Suspension of tax-exempt status of terrorist organizations.

Sec. 109. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.

Sec. 110. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE II—OTHER PROVISIONS

Sec. 201. Extension of IRS user fees.

Sec. 202. Partial payment of tax liability in installment agreements.

Sec. 203. Revision of tax rules on expatriation.

1 **TITLE I—IMPROVING TAX EQ-**
 2 **UITY FOR MILITARY PER-**
 3 **SONNEL**

4 **SEC. 101. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**
 5 **RESIDENCE BY A MEMBER OF THE UNI-**
 6 **FORMED SERVICES OR THE FOREIGN SERV-**
 7 **ICE.**

8 (a) IN GENERAL.—Subsection (d) of section 121 (re-
 9 lating to exclusion of gain from sale of principal residence)
 10 is amended by redesignating paragraph (9) as paragraph
 11 (10) and by inserting after paragraph (8) the following
 12 new paragraph:

13 “(9) MEMBERS OF UNIFORMED SERVICES AND
 14 FOREIGN SERVICE.—

15 “(A) IN GENERAL.—At the election of an
 16 individual with respect to a property, the run-
 17 ning of the 5-year period described in sub-
 18 sections (a) and (c)(1)(B) and paragraph (7) of
 19 this subsection with respect to such property
 20 shall be suspended during any period that such
 21 individual or such individual’s spouse is serving
 22 on qualified official extended duty as a member
 23 of the uniformed services or of the Foreign
 24 Service of the United States.

1 “(B) MAXIMUM PERIOD OF SUSPENSION.—

2 The 5-year period described in subsection (a)
3 shall not be extended more than 10 years by
4 reason of subparagraph (A).

5 “(C) QUALIFIED OFFICIAL EXTENDED
6 DUTY.—For purposes of this paragraph—

7 “(i) IN GENERAL.—The term ‘quali-
8 fied official extended duty’ means any ex-
9 tended duty while serving at a duty station
10 which is at least 50 miles from such prop-
11 erty or while residing under Government
12 orders in Government quarters.

13 “(ii) UNIFORMED SERVICES.—The
14 term ‘uniformed services’ has the meaning
15 given such term by section 101(a)(5) of
16 title 10, United States Code, as in effect
17 on the date of the enactment of this pa-
18 ragraph.

19 “(iii) FOREIGN SERVICE OF THE
20 UNITED STATES.—The term ‘member of
21 the Foreign Service of the United States’
22 has the meaning given the term ‘member
23 of the Service’ by paragraph (1), (2), (3),
24 (4), or (5) of section 103 of the Foreign

1 Service Act of 1980, as in effect on the
2 date of the enactment of this paragraph.

3 “(iv) EXTENDED DUTY.—The term
4 ‘extended duty’ means any period of active
5 duty pursuant to a call or order to such
6 duty for a period in excess of 90 days or
7 for an indefinite period.

8 “(D) SPECIAL RULES RELATING TO ELEC-
9 TION.—

10 “(i) ELECTION LIMITED TO 1 PROP-
11 erty AT A TIME.—An election under sub-
12 paragraph (A) with respect to any property
13 may not be made if such an election is in
14 effect with respect to any other property.

15 “(ii) REVOCATION OF ELECTION.—An
16 election under subparagraph (A) may be
17 revoked at any time.”.

18 (b) EFFECTIVE DATE; SPECIAL RULE.—

19 (1) EFFECTIVE DATE.—The amendments made
20 by this section shall take effect as if included in the
21 amendments made by section 312 of the Taxpayer
22 Relief Act of 1997.

23 (2) WAIVER OF LIMITATIONS.—If refund or
24 credit of any overpayment of tax resulting from the
25 amendments made by this section is prevented at

1 any time before the close of the 1-year period begin-
 2 ning on the date of the enactment of this Act by
 3 the operation of any law or rule of law (including
 4 res judicata), such refund or credit may nevertheless
 5 be made or allowed if claim therefor is filed before
 6 the close of such period.

7 **SEC. 102. EXCLUSION FROM GROSS INCOME OF CERTAIN**
 8 **DEATH GRATUITY PAYMENTS.**

9 (a) IN GENERAL.—Subsection (b)(3) of section 134
 10 (relating to certain military benefits) is amended by add-
 11 ing at the end the following new subparagraph:

12 “(C) EXCEPTION FOR DEATH GRATUITY
 13 ADJUSTMENTS MADE BY LAW.—Subparagraph
 14 (A) shall not apply to any adjustment to the
 15 amount of death gratuity payable under chapter
 16 75 of title 10, United States Code, which is
 17 pursuant to a provision of law enacted after
 18 September 9, 1986.”.

19 (b) CONFORMING AMENDMENT.—Subparagraph (A)
 20 of section 134(b)(3) is amended by striking “subpara-
 21 graph (B)” and inserting “subparagraphs (B) and (C)”.

22 (c) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply with respect to deaths occurring
 24 after September 10, 2001.

1 **SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DE-**
 2 **PARTMENT OF DEFENSE HOMEOWNERS AS-**
 3 **SISTANCE PROGRAM.**

4 (a) IN GENERAL.—Section 132(a) (relating to the ex-
 5 clusion from gross income of certain fringe benefits) is
 6 amended by striking “or” at the end of paragraph (6),
 7 by striking the period at the end of paragraph (7) and
 8 inserting “, or”, and by adding at the end the following
 9 new paragraph:

10 “(8) qualified military base realignment and
 11 closure fringe.”.

12 (b) QUALIFIED MILITARY BASE REALIGNMENT AND
 13 CLOSURE FRINGE.—Section 132 is amended by redesign-
 14 ating subsection (n) as subsection (o) and by inserting
 15 after subsection (m) the following new subsection:

16 “(n) QUALIFIED MILITARY BASE REALIGNMENT AND
 17 CLOSURE FRINGE.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualified mili-
 19 tary base realignment and closure fringe’ means 1 or
 20 more payments under the authority of section 1013
 21 of the Demonstration Cities and Metropolitan Devel-
 22 opment Act of 1966 (42 U.S.C. 3374) (as in effect
 23 on the date of the enactment of this subsection) to
 24 offset the adverse effects on housing values as a re-
 25 sult of a military base realignment or closure.

1 “(2) LIMITATION.—With respect to any prop-
 2 erty, such term shall not include any payment re-
 3 ferred to in paragraph (1) to the extent that the
 4 sum of all of such payments related to such property
 5 exceeds the maximum amount described in clause
 6 (1) of subsection (c) of such section (as in effect on
 7 such date).”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to payments made after the date
 10 of the enactment of this Act.

11 **SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO**
 12 **CONTINGENCY OPERATIONS.**

13 (a) IN GENERAL.—Section 7508(a) (relating to time
 14 for performing certain acts postponed by reason of service
 15 in combat zone) is amended—

16 (1) by inserting “, or when deployed outside the
 17 United States away from the individual’s permanent
 18 duty station while participating in an operation des-
 19 ignated by the Secretary of Defense as a contin-
 20 gency operation (as defined in section 101(a)(13) of
 21 title 10, United States Code) or which became such
 22 a contingency operation by operation of law” after
 23 “section 112”,

1 (2) by inserting in the first sentence “or at any
2 time during the period of such contingency oper-
3 ation” after “for purposes of such section”,

4 (3) by inserting “or operation” after “such an
5 area”, and

6 (4) by inserting “or operation” after “such
7 area”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 7508(d) is amended by inserting
10 “or contingency operation” after “area”.

11 (2) The heading for section 7508 is amended by
12 inserting “**OR CONTINGENCY OPERATION**” after
13 “**COMBAT ZONE**”.

14 (3) The item relating to section 7508 in the
15 table of sections for chapter 77 is amended by in-
16 serting “or contingency operation” after “combat
17 zone”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to any period for performing an
20 act which has not expired before the date of the enactment
21 of this Act.

1 **SEC. 105. MODIFICATION OF MEMBERSHIP REQUIREMENT**
 2 **FOR EXEMPTION FROM TAX FOR CERTAIN**
 3 **VETERANS' ORGANIZATIONS.**

4 (a) IN GENERAL.—Subparagraph (B) of section
 5 501(c)(19) (relating to list of exempt organizations) is
 6 amended by striking “or widowers” and inserting “, wid-
 7 owers, ancestors, or lineal descendants”.

8 (b) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 the date of the enactment of this Act.

11 **SEC. 106. CLARIFICATION OF THE TREATMENT OF CERTAIN**
 12 **DEPENDENT CARE ASSISTANCE PROGRAMS.**

13 (a) IN GENERAL.—Section 134(b) (defining qualified
 14 military benefit) is amended by adding at the end the fol-
 15 lowing new paragraph:

16 “(4) CLARIFICATION OF CERTAIN BENEFITS.—
 17 For purposes of paragraph (1), such term includes
 18 any dependent care assistance program (as in effect
 19 on the date of the enactment of this paragraph) for
 20 any individual described in paragraph (1)(A).”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 134(b)(3)(A), as amended by sec-
 23 tion 102, is amended by inserting “and paragraph
 24 (4)” after “subparagraphs (B) and (C)”.

25 (2) Section 3121(a)(18) is amended by striking
 26 “or 129” and inserting “, 129, or 134(b)(4)”.

1 (3) Section 3306(b)(13) is amended by striking
2 “or 129” and inserting “, 129, or 134(b)(4)”.

3 (4) Section 3401(a)(18) is amended by striking
4 “or 129” and inserting “, 129, or 134(b)(4)”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2002.

8 (d) NO INFERENCE.—No inference may be drawn
9 from the amendments made by this section with respect
10 to the tax treatment of any amounts under the program
11 described in section 134(b)(4) of the Internal Revenue
12 Code of 1986 (as added by this section) for any taxable
13 year beginning before January 1, 2003.

14 **SEC. 107. CLARIFICATION RELATING TO EXCEPTION FROM**
15 **ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PRO-**
16 **GRAMS, ETC. ON ACCOUNT OF ATTENDANCE**
17 **AT MILITARY ACADEMY.**
18

19 (a) IN GENERAL.—Subparagraph (B) of section
20 530(d)(4) (relating to exceptions from additional tax for
21 distributions not used for educational purposes) is amend-
22 ed by striking “or” at the end of clause (iii), by redesign-
23 ating clause (iv) as clause (v), and by inserting after
24 clause (iii) the following new clause:

1 “(iv) made on account of the
 2 attendance of the designated beneficiary at
 3 the United States Military Academy, the
 4 United States Naval Academy, the United
 5 States Air Force Academy, the United
 6 States Coast Guard Academy, or the
 7 United States Merchant Marine Academy,
 8 to the extent that the amount of the pay-
 9 ment or distribution does not exceed the
 10 costs of advanced education (as defined by
 11 section 2005(e)(3) of title 10, United
 12 States Code, as in effect on the date of the
 13 enactment of this section) attributable to
 14 such attendance, or”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 December 31, 2002.

18 **SEC. 108. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
 19 **RORIST ORGANIZATIONS.**

20 (a) IN GENERAL.—Section 501 (relating to exemp-
 21 tion from tax on corporations, certain trusts, etc.) is
 22 amended by redesignating subsection (p) as subsection (q)
 23 and by inserting after subsection (o) the following new
 24 subsection:

1 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-
2 RORIST ORGANIZATIONS.—

3 “(1) IN GENERAL.—The exemption from tax
4 under subsection (a) with respect to any organiza-
5 tion described in paragraph (2), and the eligibility of
6 any organization described in paragraph (2) to apply
7 for recognition of exemption under subsection (a),
8 shall be suspended during the period described in
9 paragraph (3).

10 “(2) TERRORIST ORGANIZATIONS.—An organi-
11 zation is described in this paragraph if such organi-
12 zation is designated or otherwise individually identi-
13 fied—

14 “(A) under section 212(a)(3)(B)(vi)(II) or
15 219 of the Immigration and Nationality Act as
16 a terrorist organization or foreign terrorist or-
17 ganization,

18 “(B) in or pursuant to an Executive order
19 which is related to terrorism and issued under
20 the authority of the International Emergency
21 Economic Powers Act or section 5 of the
22 United Nations Participation Act of 1945 for
23 the purpose of imposing on such organization
24 an economic or other sanction, or

“(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

“(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

“(ii) such Executive order refers to this subsection.

“(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

“(A) begins on the later of—

“(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

“(ii) the date of the enactment of this subsection, and

1 “(B) ends on the first date that all des-
2 ignations and identifications described in para-
3 graph (2) with respect to such organization are
4 rescinded pursuant to the law or Executive
5 order under which such designation or identi-
6 fication was made.

7 “(4) DENIAL OF DEDUCTION.—No deduction
8 shall be allowed under any provision of this title, in-
9 cluding sections 170, 545(b)(2), 556(b)(2), 642(c),
10 2055, 2106(a)(2), and 2522, with respect to any
11 contribution to an organization described in para-
12 graph (2) during the period described in paragraph
13 (3).

14 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL
15 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-
16 TION.—Notwithstanding section 7428 or any other
17 provision of law, no organization or other person
18 may challenge a suspension under paragraph (1), a
19 designation or identification described in paragraph
20 (2), the period of suspension described in paragraph
21 (3), or a denial of a deduction under paragraph (4)
22 in any administrative or judicial proceeding relating
23 to the Federal tax liability of such organization or
24 other person.

25 “(6) ERRONEOUS DESIGNATION.—

1 “(A) IN GENERAL.—If—

2 “(i) the tax exemption of any organi-
3 zation described in paragraph (2) is sus-
4 pended under paragraph (1),

5 “(ii) each designation and identifica-
6 tion described in paragraph (2) which has
7 been made with respect to such organiza-
8 tion is determined to be erroneous pursu-
9 ant to the law or Executive order under
10 which such designation or identification
11 was made, and

12 “(iii) the erroneous designations and
13 identifications result in an overpayment of
14 income tax for any taxable year by such
15 organization,

16 credit or refund (with interest) with respect to
17 such overpayment shall be made.

18 “(B) WAIVER OF LIMITATIONS.—If the
19 credit or refund of any overpayment of tax de-
20 scribed in subparagraph (A)(iii) is prevented at
21 any time by the operation of any law or rule of
22 law (including res judicata), such credit or re-
23 fund may nevertheless be allowed or made if the
24 claim therefor is filed before the close of the 1-
25 year period beginning on the date of the last

1 determination described in subparagraph
2 (A)(ii).

3 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
4 emption of any organization is suspended under this
5 subsection, the Internal Revenue Service shall up-
6 date the listings of tax-exempt organizations and
7 shall publish appropriate notice to taxpayers of such
8 suspension and of the fact that contributions to such
9 organization are not deductible during the period of
10 such suspension.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to designations made before, on,
13 or after the date of the enactment of this Act.

14 **SEC. 109. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT**
15 **TRAVEL EXPENSES OF NATIONAL GUARD**
16 **AND RESERVE MEMBERS.**

17 (a) DEDUCTION ALLOWED.—Section 162 (relating to
18 certain trade or business expenses) is amended by redesignig-
19 nating subsection (p) as subsection (q) and inserting after
20 subsection (o) the following new subsection:

21 “(p) TREATMENT OF EXPENSES OF MEMBERS OF
22 RESERVE COMPONENT OF ARMED FORCES OF THE
23 UNITED STATES.—For purposes of subsection (a)(2), in
24 the case of an individual who performs services as a mem-
25 ber of a reserve component of the Armed Forces of the

1 United States at any time during the taxable year, such
 2 individual shall be deemed to be away from home in the
 3 pursuit of a trade or business for any period during which
 4 such individual is away from home in connection with such
 5 service.”.

6 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-
 7 PAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating
 8 to certain trade and business deductions of employees) is
 9 amended by adding at the end the following new subpara-
 10 graph:

11 “(E) CERTAIN EXPENSES OF MEMBERS OF
 12 RESERVE COMPONENTS OF THE ARMED FORCES
 13 OF THE UNITED STATES.—The deductions al-
 14 lowed by section 162 which consist of expenses,
 15 determined at a rate not in excess of the rates
 16 for travel expenses (including per diem in lieu
 17 of subsistence) authorized for employees of
 18 agencies under subchapter I of chapter 57 of
 19 title 5, United States Code, paid or incurred by
 20 the taxpayer in connection with the perform-
 21 ance of services by such taxpayer as a member
 22 of a reserve component of the Armed Forces of
 23 the United States for any period during which
 24 such individual is more than 100 miles away
 25 from home in connection with such services.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to amounts paid or incurred in tax-
 3 able years beginning after December 31, 2002.

4 **SEC. 110. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF**
 5 **SPACE SHUTTLE COLUMBIA HEROES.**

6 (a) INCOME TAX RELIEF.—

7 (1) IN GENERAL.—Subsection (d) of section
 8 692 (relating to income taxes of members of Armed
 9 Forces and victims of certain terrorist attacks on
 10 death) is amended by adding at the end the fol-
 11 lowing new paragraph:

12 “(5) RELIEF WITH RESPECT TO ASTRO-
 13 NAUTS.—The provisions of this subsection shall
 14 apply to any astronaut whose death occurs in the
 15 line of duty, except that paragraph (3)(B) shall be
 16 applied by using the date of the death of the astro-
 17 naut rather than September 11, 2001.”.

18 (2) CONFORMING AMENDMENTS.—

19 (A) Section 5(b)(1) is amended by insert-
 20 ing “, astronauts,” after “Forces”.

21 (B) Section 6013(f)(2)(B) is amended by
 22 inserting “, astronauts,” after “Forces”.

23 (3) CLERICAL AMENDMENTS.—

1 (A) The heading of section 692 is amended
 2 by inserting “, **ASTRONAUTS,**” after
 3 “**FORCES**”.

4 (B) The item relating to section 692 in the
 5 table of sections for part II of subchapter J of
 6 chapter 1 is amended by inserting “, astro-
 7 nauts,” after “Forces”.

8 (4) EFFECTIVE DATE.—The amendments made
 9 by this subsection shall apply with respect to any as-
 10 tronaut whose death occurs after December 31,
 11 2002.

12 (b) DEATH BENEFIT RELIEF.—

13 (1) IN GENERAL.—Subsection (i) of section 101
 14 (relating to certain death benefits) is amended by
 15 adding at the end the following new paragraph:

16 “(4) RELIEF WITH RESPECT TO ASTRO-
 17 NAUTS.—The provisions of this subsection shall
 18 apply to any astronaut whose death occurs in the
 19 line of duty.”.

20 (2) CLERICAL AMENDMENT.—The heading for
 21 subsection (i) of section 101 is amended by inserting
 22 “OR ASTRONAUTS” after “VICTIMS”.

23 (3) EFFECTIVE DATE.—The amendments made
 24 by this subsection shall apply to amounts paid after

1 December 31, 2002, with respect to deaths occurring
2 after such date.

3 (c) ESTATE TAX RELIEF.—

4 (1) IN GENERAL.—Section 2201(b) (defining
5 qualified decedent) is amended by striking “and” at
6 the end of paragraph (1)(B), by striking the period
7 at the end of paragraph (2) and inserting “, and”,
8 and by adding at the end the following new para-
9 graph:

10 “(3) any astronaut whose death occurs in the
11 line of duty.”.

12 (2) CLERICAL AMENDMENTS.—

13 (A) The heading of section 2201 is amend-
14 ed by inserting “, **DEATHS OF ASTRO-**
15 **NAUTS,**” after “**FORCES**”.

16 (B) The item relating to section 2201 in
17 the table of sections for subchapter C of chap-
18 ter 11 is amended by inserting “, deaths of as-
19 tronauts,” after “Forces”.

20 (3) EFFECTIVE DATE.—The amendments made
21 by this subsection shall apply to estates of decedents
22 dying after December 31, 2002.

1 **TITLE II—OTHER PROVISIONS**

2 **SEC. 201. EXTENSION OF INTERNAL REVENUE SERVICE**

3 **USER FEES.**

4 (a) IN GENERAL.—Chapter 77 (relating to miscella-
5 neous provisions) is amended by adding at the end the
6 following new section:

7 **“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

8 “(a) GENERAL RULE.—The Secretary shall establish
9 a program requiring the payment of user fees for—

10 “(1) requests to the Internal Revenue Service
11 for ruling letters, opinion letters, and determination
12 letters, and

13 “(2) other similar requests.

14 “(b) PROGRAM CRITERIA.—

15 “(1) IN GENERAL.—The fees charged under the
16 program required by subsection (a)—

17 “(A) shall vary according to categories (or
18 subcategories) established by the Secretary,

19 “(B) shall be determined after taking into
20 account the average time for (and difficulty of)
21 complying with requests in each category (and
22 subcategory), and

23 “(C) shall be payable in advance.

24 “(2) EXEMPTIONS, ETC.—

1 “(A) IN GENERAL.—The Secretary shall
 2 provide for such exemptions (and reduced fees)
 3 under such program as the Secretary deter-
 4 mines to be appropriate.

5 “(B) EXEMPTION FOR CERTAIN REQUESTS
 6 REGARDING PENSION PLANS.—The Secretary
 7 shall not require payment of user fees under
 8 such program for requests for determination
 9 letters with respect to the qualified status of a
 10 pension benefit plan maintained solely by 1 or
 11 more eligible employers or any trust which is
 12 part of the plan. The preceding sentence shall
 13 not apply to any request—

14 “(i) made after the later of—

15 “(I) the fifth plan year the pen-
 16 sion benefit plan is in existence, or

17 “(II) the end of any remedial
 18 amendment period with respect to the
 19 plan beginning within the first 5 plan
 20 years, or

21 “(ii) made by the sponsor of any pro-
 22 totype or similar plan which the sponsor
 23 intends to market to participating employ-
 24 ers.

1 “(C) DEFINITIONS AND SPECIAL RULES.—

2 For purposes of subparagraph (B)—

3 “(i) PENSION BENEFIT PLAN.—The
4 term ‘pension benefit plan’ means a pen-
5 sion, profit-sharing, stock bonus, annuity,
6 or employee stock ownership plan.

7 “(ii) ELIGIBLE EMPLOYER.—The
8 term ‘eligible employer’ means an eligible
9 employer (as defined in section
10 408(p)(2)(C)(i)(I)) which has at least 1
11 employee who is not a highly compensated
12 employee (as defined in section 414(q))
13 and is participating in the plan. The deter-
14 mination of whether an employer is an eli-
15 gible employer under subparagraph (B)
16 shall be made as of the date of the request
17 described in such subparagraph.

18 “(iii) DETERMINATION OF AVERAGE
19 FEES CHARGED.—For purposes of any de-
20 termination of average fees charged, any
21 request to which subparagraph (B) applies
22 shall not be taken into account.

23 “(3) AVERAGE FEE REQUIREMENT.—The aver-
24 age fee charged under the program required by sub-

1 section (a) shall not be less than the amount deter-
 2 mined under the following table:

“Category	Average fee
Employee plan ruling and opinion	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

3 “(c) **TERMINATION.**—No fee shall be imposed under
 4 this section with respect to requests made after September
 5 30, 2013.”.

6 (b) **CONFORMING AMENDMENTS.**—

7 (1) The table of sections for chapter 77 is
 8 amended by adding at the end the following new
 9 item:

“Sec. 7528. Internal Revenue Service user fees.”.

10 (2) Section 10511 of the Revenue Act of 1987
 11 is repealed.

12 (3) Section 620 of the Economic Growth and
 13 Tax Relief Reconciliation Act of 2001 is repealed.

14 (c) **LIMITATIONS.**—Notwithstanding any other provi-
 15 sion of law, any fees collected pursuant to section 7528
 16 of the Internal Revenue Code of 1986, as added by sub-
 17 section (a), shall not be expended by the Internal Revenue
 18 Service unless provided by an appropriations Act.

19 (d) **EFFECTIVE DATE.**—The amendments made by
 20 this section shall apply to requests made after the date
 21 of the enactment of this Act.

1 **SEC. 202. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**
 2 **STALLMENT AGREEMENTS.**

3 (a) IN GENERAL.—

4 (1) Section 6159(a) (relating to authorization
 5 of agreements) is amended—

6 (A) by striking “satisfy liability for pay-
 7 ment of” and inserting “make payment on”,
 8 and

9 (B) by inserting “full or partial” after “fa-
 10 cilitate”.

11 (2) Section 6159(c) (relating to Secretary re-
 12 quired to enter into installment agreements in cer-
 13 tain cases) is amended in the matter preceding para-
 14 graph (1) by inserting “full” before “payment”.

15 (b) REQUIREMENT TO REVIEW PARTIAL PAYMENT
 16 AGREEMENTS EVERY TWO YEARS.—Section 6159 is
 17 amended by redesignating subsections (d) and (e) as sub-
 18 sections (e) and (f), respectively, and inserting after sub-
 19 section (c) the following new subsection:

20 “(d) SECRETARY REQUIRED TO REVIEW INSTALL-
 21 MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY
 22 TWO YEARS.—In the case of an agreement entered into
 23 by the Secretary under subsection (a) for partial collection
 24 of a tax liability, the Secretary shall review the agreement
 25 at least once every 2 years.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to agreements entered into on or
 3 after the date of the enactment of this Act.

4 **SEC. 203. REVISION OF TAX RULES ON EXPATRIATION.**

5 (a) IN GENERAL.—Subpart A of part II of sub-
 6 chapter N of chapter 1 is amended by inserting after sec-
 7 tion 877 the following new section:

8 **“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

9 “(a) GENERAL RULES.—For purposes of this sub-
 10 title—

11 “(1) MARK TO MARKET.—Except as provided in
 12 subsections (d) and (f), all property of a covered ex-
 13 patriate to whom this section applies shall be treated
 14 as sold on the day before the expatriation date for
 15 its fair market value.

16 “(2) RECOGNITION OF GAIN OR LOSS.—In the
 17 case of any sale under paragraph (1)—

18 “(A) notwithstanding any other provision
 19 of this title, any gain arising from such sale
 20 shall be taken into account for the taxable year
 21 of the sale, and

22 “(B) any loss arising from such sale shall
 23 be taken into account for the taxable year of
 24 the sale to the extent otherwise provided by this

1 title, except that section 1091 shall not apply to
 2 any such loss.

3 Proper adjustment shall be made in the amount of
 4 any gain or loss subsequently realized for gain or
 5 loss taken into account under the preceding sen-
 6 tence.

7 “(3) EXCLUSION FOR CERTAIN GAIN.—

8 “(A) IN GENERAL.—The amount which,
 9 but for this paragraph, would be includible in
 10 the gross income of any individual by reason of
 11 this section shall be reduced (but not below
 12 zero) by \$600,000. For purposes of this para-
 13 graph, allocable expatriation gain taken into ac-
 14 count under subsection (f)(2) shall be treated in
 15 the same manner as an amount required to be
 16 includible in gross income.

17 “(B) COST-OF-LIVING ADJUSTMENT.—

18 “(i) IN GENERAL.—In the case of an
 19 expatriation date occurring in any calendar
 20 year after 2003, the \$600,000 amount
 21 under subparagraph (A) shall be increased
 22 by an amount equal to—

23 “(I) such dollar amount, multi-
 24 plied by

1 “(II) the cost-of-living adjust-
 2 ment determined under section 1(f)(3)
 3 for such calendar year, determined by
 4 substituting ‘calendar year 2002’ for
 5 ‘calendar year 1992’ in subparagraph
 6 (B) thereof.

7 “(ii) ROUNDING RULES.—If any
 8 amount after adjustment under clause (i)
 9 is not a multiple of \$1,000, such amount
 10 shall be rounded to the next lower multiple
 11 of \$1,000.

12 “(4) ELECTION TO CONTINUE TO BE TAXED AS
 13 UNITED STATES CITIZEN.—

14 “(A) IN GENERAL.—If a covered expatriate
 15 elects the application of this paragraph—

16 “(i) this section (other than this para-
 17 graph and subsection (i)) shall not apply to
 18 the expatriate, but

19 “(ii) in the case of property to which
 20 this section would apply but for such elec-
 21 tion, the expatriate shall be subject to tax
 22 under this title in the same manner as if
 23 the individual were a United States citizen.

1 “(B) REQUIREMENTS.—Subparagraph (A)
 2 shall not apply to an individual unless the indi-
 3 vidual—

4 “(i) provides security for payment of
 5 tax in such form and manner, and in such
 6 amount, as the Secretary may require,

7 “(ii) consents to the waiver of any
 8 right of the individual under any treaty of
 9 the United States which would preclude as-
 10 sessment or collection of any tax which
 11 may be imposed by reason of this para-
 12 graph, and

13 “(iii) complies with such other re-
 14 quirements as the Secretary may prescribe.

15 “(C) ELECTION.—An election under sub-
 16 paragraph (A) shall apply to all property to
 17 which this section would apply but for the elec-
 18 tion and, once made, shall be irrevocable. Such
 19 election shall also apply to property the basis of
 20 which is determined in whole or in part by ref-
 21 erence to the property with respect to which the
 22 election was made.

23 “(b) ELECTION TO DEFER TAX.—

24 “(1) IN GENERAL.—If the taxpayer elects the
 25 application of this subsection with respect to any

1 property treated as sold by reason of subsection (a),
2 the payment of the additional tax attributable to
3 such property shall be postponed until the due date
4 of the return for the taxable year in which such
5 property is disposed of (or, in the case of property
6 disposed of in a transaction in which gain is not rec-
7 ognized in whole or in part, until such other date
8 as the Secretary may prescribe).

9 “(2) DETERMINATION OF TAX WITH RESPECT
10 TO PROPERTY.—For purposes of paragraph (1), the
11 additional tax attributable to any property is an
12 amount which bears the same ratio to the additional
13 tax imposed by this chapter for the taxable year
14 solely by reason of subsection (a) as the gain taken
15 into account under subsection (a) with respect to
16 such property bears to the total gain taken into ac-
17 count under subsection (a) with respect to all prop-
18 erty to which subsection (a) applies.

19 “(3) TERMINATION OF POSTPONEMENT.—No
20 tax may be postponed under this subsection later
21 than the due date for the return of tax imposed by
22 this chapter for the taxable year which includes the
23 date of death of the expatriate (or, if earlier, the
24 time that the security provided with respect to the
25 property fails to meet the requirements of paragraph

(4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the elec-

1 tion and, once made, is irrevocable. An election may
 2 be made under paragraph (1) with respect to an in-
 3 terest in a trust with respect to which gain is re-
 4 quired to be recognized under subsection (f)(1).

5 “(7) INTEREST.—For purposes of section
 6 6601—

7 “(A) the last date for the payment of tax
 8 shall be determined without regard to the elec-
 9 tion under this subsection, and

10 “(B) section 6621(a)(2) shall be applied by
 11 substituting ‘5 percentage points’ for ‘3 per-
 12 centage points’ in subparagraph (B) thereof.

13 “(c) COVERED EXPATRIATE.—For purposes of this
 14 section—

15 “(1) IN GENERAL.—Except as provided in para-
 16 graph (2), the term ‘covered expatriate’ means an
 17 expatriate.

18 “(2) EXCEPTIONS.—An individual shall not be
 19 treated as a covered expatriate if—

20 “(A) the individual—

21 “(i) became at birth a citizen of the
 22 United States and a citizen of another
 23 country and, as of the expatriation date,
 24 continues to be a citizen of, and is taxed
 25 as a resident of, such other country, and

1 “(ii) has not been a resident of the
 2 United States (as defined in section
 3 7701(b)(1)(A)(ii)) during the 5 taxable
 4 years ending with the taxable year during
 5 which the expatriation date occurs, or

6 “(B)(i) the individual’s relinquishment of
 7 United States citizenship occurs before such in-
 8 dividual attains age 18½, and

9 “(ii) the individual has been a resident of
 10 the United States (as so defined) for not more
 11 than 5 taxable years before the date of relin-
 12 quishment.

13 “(d) EXEMPT PROPERTY; SPECIAL RULES FOR PEN-
 14 SION PLANS.—

15 “(1) EXEMPT PROPERTY.—This section shall
 16 not apply to the following:

17 “(A) UNITED STATES REAL PROPERTY IN-
 18 TERESTS.—Any United States real property in-
 19 terest (as defined in section 897(c)(1)), other
 20 than stock of a United States real property
 21 holding corporation which does not, on the day
 22 before the expatriation date, meet the require-
 23 ments of section 897(c)(2).

24 “(B) SPECIFIED PROPERTY.—Any prop-
 25 erty or interest in property not described in

1 subparagraph (A) which the Secretary specifies
2 in regulations.

3 “(2) SPECIAL RULES FOR CERTAIN RETIRE-
4 MENT PLANS.—

5 “(A) IN GENERAL.—If a covered expatriate
6 holds on the day before the expatriation date
7 any interest in a retirement plan to which this
8 paragraph applies—

9 “(i) such interest shall not be treated
10 as sold for purposes of subsection (a)(1),
11 but

12 “(ii) an amount equal to the present
13 value of the expatriate’s nonforfeitable ac-
14 crued benefit shall be treated as having
15 been received by such individual on such
16 date as a distribution under the plan.

17 “(B) TREATMENT OF SUBSEQUENT DIS-
18 TRIBUTIONS.—In the case of any distribution
19 on or after the expatriation date to or on behalf
20 of the covered expatriate from a plan from
21 which the expatriate was treated as receiving a
22 distribution under subparagraph (A), the
23 amount otherwise includible in gross income by
24 reason of the subsequent distribution shall be
25 reduced by the excess of the amount includible

1 in gross income under subparagraph (A) over
 2 any portion of such amount to which this sub-
 3 paragraph previously applied.

4 “(C) TREATMENT OF SUBSEQUENT DIS-
 5 TRIBUTIONS BY PLAN.—For purposes of this
 6 title, a retirement plan to which this paragraph
 7 applies, and any person acting on the plan’s be-
 8 half, shall treat any subsequent distribution de-
 9 scribed in subparagraph (B) in the same man-
 10 ner as such distribution would be treated with-
 11 out regard to this paragraph.

12 “(D) APPLICABLE PLANS.—This para-
 13 graph shall apply to—

14 “(i) any qualified retirement plan (as
 15 defined in section 4974(c)),

16 “(ii) an eligible deferred compensation
 17 plan (as defined in section 457(b)) of an
 18 eligible employer described in section
 19 457(e)(1)(A), and

20 “(iii) to the extent provided in regula-
 21 tions, any foreign pension plan or similar
 22 retirement arrangements or programs.

23 “(e) DEFINITIONS.—For purposes of this section—

24 “(1) EXPATRIATE.—The term ‘expatriate’
 25 means—

1 “(A) any United States citizen who relin-
2 quishes citizenship, and

3 “(B) any long-term resident of the United
4 States who—

5 “(i) ceases to be a lawful permanent
6 resident of the United States (within the
7 meaning of section 7701(b)(6)), or

8 “(ii) commences to be treated as a
9 resident of a foreign country under the
10 provisions of a tax treaty between the
11 United States and the foreign country and
12 who does not waive the benefits of such
13 treaty applicable to residents of the foreign
14 country.

15 “(2) EXPATRIATION DATE.—The term ‘expa-
16 triation date’ means—

17 “(A) the date an individual relinquishes
18 United States citizenship, or

19 “(B) in the case of a long-term resident of
20 the United States, the date of the event de-
21 scribed in clause (i) or (ii) of paragraph (1)(B).

22 “(3) RELINQUISHMENT OF CITIZENSHIP.—A
23 citizen shall be treated as relinquishing United
24 States citizenship on the earliest of—

1 “(A) the date the individual renounces
2 such individual’s United States nationality be-
3 fore a diplomatic or consular officer of the
4 United States pursuant to paragraph (5) of sec-
5 tion 349(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1481(a)(5)),

7 “(B) the date the individual furnishes to
8 the United States Department of State a signed
9 statement of voluntary relinquishment of
10 United States nationality confirming the per-
11 formance of an act of expatriation specified in
12 paragraph (1), (2), (3), or (4) of section 349(a)
13 of the Immigration and Nationality Act (8
14 U.S.C. 1481(a)(1)–(4)),

15 “(C) the date the United States Depart-
16 ment of State issues to the individual a certifi-
17 cate of loss of nationality, or

18 “(D) the date a court of the United States
19 cancels a naturalized citizen’s certificate of nat-
20 uralization.

21 Subparagraph (A) or (B) shall not apply to any indi-
22 vidual unless the renunciation or voluntary relin-
23 quishment is subsequently approved by the issuance
24 to the individual of a certificate of loss of nationality
25 by the United States Department of State.

1 “(4) LONG-TERM RESIDENT.—The term ‘long-
 2 term resident’ has the meaning given to such term
 3 by section 877(e)(2).

4 “(f) SPECIAL RULES APPLICABLE TO BENE-
 5 FICIARIES’ INTERESTS IN TRUST.—

6 “(1) IN GENERAL.—Except as provided in para-
 7 graph (2), if an individual is determined under para-
 8 graph (3) to hold an interest in a trust on the day
 9 before the expatriation date—

10 “(A) the individual shall not be treated as
 11 having sold such interest,

12 “(B) such interest shall be treated as a
 13 separate share in the trust, and

14 “(C)(i) such separate share shall be treat-
 15 ed as a separate trust consisting of the assets
 16 allocable to such share,

17 “(ii) the separate trust shall be treated as
 18 having sold its assets on the day before the ex-
 19 patriation date for their fair market value and
 20 as having distributed all of its assets to the in-
 21 dividual as of such time, and

22 “(iii) the individual shall be treated as hav-
 23 ing recontributed the assets to the separate
 24 trust.

1 Subsection (a)(2) shall apply to any income, gain, or
 2 loss of the individual arising from a distribution de-
 3 scribed in subparagraph (C)(ii). In determining the
 4 amount of such distribution, proper adjustments
 5 shall be made for liabilities of the trust allocable to
 6 an individual's share in the trust.

7 “(2) SPECIAL RULES FOR INTERESTS IN QUALI-
 8 FIED TRUSTS.—

9 “(A) IN GENERAL.—If the trust interest
 10 described in paragraph (1) is an interest in a
 11 qualified trust—

12 “(i) paragraph (1) and subsection (a)
 13 shall not apply, and

14 “(ii) in addition to any other tax im-
 15 posed by this title, there is hereby imposed
 16 on each distribution with respect to such
 17 interest a tax in the amount determined
 18 under subparagraph (B).

19 “(B) AMOUNT OF TAX.—The amount of
 20 tax under subparagraph (A)(ii) shall be equal to
 21 the lesser of—

22 “(i) the highest rate of tax imposed by
 23 section 1(e) for the taxable year which in-
 24 cludes the day before the expatriation date,

1 multiplied by the amount of the distribu-
2 tion, or

3 “(ii) the balance in the deferred tax
4 account immediately before the distribution
5 determined without regard to any increases
6 under subparagraph (C)(ii) after the 30th
7 day preceding the distribution.

8 “(C) DEFERRED TAX ACCOUNT.—For pur-
9 poses of subparagraph (B)(ii)—

10 “(i) OPENING BALANCE.—The open-
11 ing balance in a deferred tax account with
12 respect to any trust interest is an amount
13 equal to the tax which would have been im-
14 posed on the allocable expatriation gain
15 with respect to the trust interest if such
16 gain had been included in gross income
17 under subsection (a).

18 “(ii) INCREASE FOR INTEREST.—The
19 balance in the deferred tax account shall
20 be increased by the amount of interest de-
21 termined (on the balance in the account at
22 the time the interest accrues), for periods
23 after the 90th day after the expatriation
24 date, by using the rates and method appli-
25 cable under section 6621 for underpay-

ments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

“(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

“(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

“(D) ALLOCABLE EXPATRIATION GAIN.—

For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust is the amount of gain which would be allocable to such beneficiary’s vested and nonvested interests in the

1 trust if the beneficiary held directly all assets
2 allocable to such interests.

3 “(E) TAX DEDUCTED AND WITHHELD.—

4 “(i) IN GENERAL.—The tax imposed
5 by subparagraph (A)(ii) shall be deducted
6 and withheld by the trustees from the dis-
7 tribution to which it relates.

8 “(ii) EXCEPTION WHERE FAILURE TO
9 WAIVE TREATY RIGHTS.—If an amount
10 may not be deducted and withheld under
11 clause (i) by reason of the distributee fail-
12 ing to waive any treaty right with respect
13 to such distribution—

14 “(I) the tax imposed by subpara-
15 graph (A)(ii) shall be imposed on the
16 trust and each trustee shall be person-
17 ally liable for the amount of such tax,
18 and

19 “(II) any other beneficiary of the
20 trust shall be entitled to recover from
21 the distributee the amount of such tax
22 imposed on the other beneficiary.

23 “(F) DISPOSITION.—If a trust ceases to be
24 a qualified trust at any time, a covered expa-
25 triate disposes of an interest in a qualified

trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

“(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

“(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

“(G) DEFINITIONS AND SPECIAL RULES.—

For purposes of this paragraph—

“(i) QUALIFIED TRUST.—The term ‘qualified trust’ means a trust which is described in section 7701(a)(30)(E).

“(ii) VESTED INTEREST.—The term ‘vested interest’ means any interest which,

1 as of the day before the expatriation date,
2 is vested in the beneficiary.

3 “(iii) NONVESTED INTEREST.—The
4 term ‘nonvested interest’ means, with re-
5 spect to any beneficiary, any interest in a
6 trust which is not a vested interest. Such
7 interest shall be determined by assuming
8 the maximum exercise of discretion in
9 favor of the beneficiary and the occurrence
10 of all contingencies in favor of the bene-
11 ficiary.

12 “(iv) ADJUSTMENTS.—The Secretary
13 may provide for such adjustments to the
14 bases of assets in a trust or a deferred tax
15 account, and the timing of such adjust-
16 ments, in order to ensure that gain is
17 taxed only once.

18 “(v) COORDINATION WITH RETIRE-
19 MENT PLAN RULES.—This subsection shall
20 not apply to an interest in a trust which
21 is part of a retirement plan to which sub-
22 section (d)(2) applies.

23 “(3) DETERMINATION OF BENEFICIARIES’ IN-
24 TEREST IN TRUST.—

1 “(A) DETERMINATIONS UNDER PARA-
 2 GRAPH (1).—For purposes of paragraph (1), a
 3 beneficiary’s interest in a trust shall be based
 4 upon all relevant facts and circumstances, in-
 5 cluding the terms of the trust instrument and
 6 any letter of wishes or similar document, histor-
 7 ical patterns of trust distributions, and the ex-
 8 istence of and functions performed by a trust
 9 protector or any similar adviser.

10 “(B) OTHER DETERMINATIONS.—For pur-
 11 poses of this section—

12 “(i) CONSTRUCTIVE OWNERSHIP.—If
 13 a beneficiary of a trust is a corporation,
 14 partnership, trust, or estate, the share-
 15 holders, partners, or beneficiaries shall be
 16 deemed to be the trust beneficiaries for
 17 purposes of this section.

18 “(ii) TAXPAYER RETURN POSITION.—
 19 A taxpayer shall clearly indicate on its in-
 20 come tax return—

21 “(I) the methodology used to de-
 22 termine that taxpayer’s trust interest
 23 under this section, and

24 “(II) if the taxpayer knows (or
 25 has reason to know) that any other

1 beneficiary of such trust is using a
2 different methodology to determine
3 such beneficiary's trust interest under
4 this section.

5 “(g) TERMINATION OF DEFERRALS, ETC.—In the
6 case of any covered expatriate, notwithstanding any other
7 provision of this title—

8 “(1) any period during which recognition of in-
9 come or gain is deferred shall terminate on the day
10 before the expatriation date, and

11 “(2) any extension of time for payment of tax
12 shall cease to apply on the day before the expatria-
13 tion date and the unpaid portion of such tax shall
14 be due and payable at the time and in the manner
15 prescribed by the Secretary.

16 “(h) IMPOSITION OF TENTATIVE TAX.—

17 “(1) IN GENERAL.—If an individual is required
18 to include any amount in gross income under sub-
19 section (a) for any taxable year, there is hereby im-
20 posed, immediately before the expatriation date, a
21 tax in an amount equal to the amount of tax which
22 would be imposed if the taxable year were a short
23 taxable year ending on the expatriation date.

1 “(2) DUE DATE.—The due date for any tax im-
 2 posed by paragraph (1) shall be the 90th day after
 3 the expatriation date.

4 “(3) TREATMENT OF TAX.—Any tax paid under
 5 paragraph (1) shall be treated as a payment of the
 6 tax imposed by this chapter for the taxable year to
 7 which subsection (a) applies.

8 “(4) DEFERRAL OF TAX.—The provisions of
 9 subsection (b) shall apply to the tax imposed by this
 10 subsection to the extent attributable to gain includ-
 11 ible in gross income by reason of this section.

12 “(i) SPECIAL LIENS FOR DEFERRED TAX
 13 AMOUNTS.—

14 “(1) IMPOSITION OF LIEN.—

15 “(A) IN GENERAL.—If a covered expatriate
 16 makes an election under subsection (a)(4) or
 17 (b) which results in the deferral of any tax im-
 18 posed by reason of subsection (a), the deferred
 19 amount (including any interest, additional
 20 amount, addition to tax, assessable penalty, and
 21 costs attributable to the deferred amount) shall
 22 be a lien in favor of the United States on all
 23 property of the expatriate located in the United
 24 States (without regard to whether this section
 25 applies to the property).

1 “(B) DEFERRED AMOUNT.—For purposes
2 of this subsection, the deferred amount is the
3 amount of the increase in the covered expatri-
4 ate’s income tax which, but for the election
5 under subsection (a)(4) or (b), would have oc-
6 curred by reason of this section for the taxable
7 year including the expatriation date.

8 “(2) PERIOD OF LIEN.—The lien imposed by
9 this subsection shall arise on the expatriation date
10 and continue until—

11 “(A) the liability for tax by reason of this
12 section is satisfied or has become unenforceable
13 by reason of lapse of time, or

14 “(B) it is established to the satisfaction of
15 the Secretary that no further tax liability may
16 arise by reason of this section.

17 “(3) CERTAIN RULES APPLY.—The rules set
18 forth in paragraphs (1), (3), and (4) of section
19 6324A(d) shall apply with respect to the lien im-
20 posed by this subsection as if it were a lien imposed
21 by section 6324A.

22 “(j) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be necessary or appropriate to
24 carry out the purposes of this section.”.

1 (b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS
 2 RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS
 3 FROM EXPATRIATES.—Section 102 (relating to gifts, etc.
 4 not included in gross income) is amended by adding at
 5 the end the following new subsection:

6 “(d) GIFTS AND INHERITANCES FROM COVERED EX-
 7 PATRIATES.—

8 “(1) IN GENERAL.—Subsection (a) shall not ex-
 9 clude from gross income the value of any property
 10 acquired by gift, bequest, devise, or inheritance from
 11 a covered expatriate after the expatriation date. For
 12 purposes of this subsection, any term used in this
 13 subsection which is also used in section 877A shall
 14 have the same meaning as when used in section
 15 877A.

16 “(2) EXCEPTIONS FOR TRANSFERS OTHERWISE
 17 SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1)
 18 shall not apply to any property if either—

19 “(A) the gift, bequest, devise, or inherit-
 20 ance is—

21 “(i) shown on a timely filed return of
 22 tax imposed by chapter 12 as a taxable gift
 23 by the covered expatriate, or

24 “(ii) included in the gross estate of
 25 the covered expatriate for purposes of

1 chapter 11 and shown on a timely filed re-
 2 turn of tax imposed by chapter 11 of the
 3 estate of the covered expatriate, or

4 “(B) no such return was timely filed but
 5 no such return would have been required to be
 6 filed even if the covered expatriate were a cit-
 7 izen or long-term resident of the United
 8 States.”.

9 (c) DEFINITION OF TERMINATION OF UNITED
 10 STATES CITIZENSHIP.—Section 7701(a) is amended by
 11 adding at the end the following new paragraph:

12 “(48) TERMINATION OF UNITED STATES CITI-
 13 ZENSHIP.—

14 “(A) IN GENERAL.—An individual shall
 15 not cease to be treated as a United States cit-
 16 izen before the date on which the individual’s
 17 citizenship is treated as relinquished under sec-
 18 tion 877A(e)(3).

19 “(B) DUAL CITIZENS.—Under regulations
 20 prescribed by the Secretary, subparagraph (A)
 21 shall not apply to an individual who became at
 22 birth a citizen of the United States and a cit-
 23 izen of another country.”.

24 (d) INELIGIBILITY FOR VISA OR ADMISSION TO
 25 UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

“(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).”.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

“(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General’s delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agen-

1 cy responsible for administering section
 2 212(a)(10)(E) of the Immigration and Nationality
 3 Act solely for the purpose of, and to the extent nec-
 4 essary in, administering such section
 5 212(a)(10)(E).”.

6 (B) SAFEGUARDS.—Section 6103(p)(4)
 7 (relating to safeguards) is amended by striking
 8 “or (17)” each place it appears and inserting
 9 “(17), or (19)”.

10 (3) EFFECTIVE DATE.—The amendments made
 11 by this subsection shall apply to individuals who re-
 12 linquish United States citizenship on or after the
 13 date of the enactment of this Act.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Section 877 is amended by adding at the
 16 end the following new subsection:

17 “(g) APPLICATION.—This section shall not apply to
 18 an expatriate (as defined in section 877A(e)) whose expa-
 19 triation date (as so defined) occurs on or after February
 20 5, 2003.”.

21 (2) Section 2107 is amended by adding at the
 22 end the following new subsection:

23 “(f) APPLICATION.—This section shall not apply to
 24 any expatriate subject to section 877A.”.

1 (3) Section 2501(a)(3) is amended by adding at
2 the end the following new subparagraph:

3 “(F) APPLICATION.—This paragraph shall
4 not apply to any expatriate subject to section
5 877A.”.

6 (4)(A) Paragraph (1) of section 6039G(d) is
7 amended by inserting “or 877A” after “section
8 877”.

9 (B) The second sentence of section 6039G(e) is
10 amended by inserting “or who relinquishes United
11 States citizenship (within the meaning of section
12 877A(e)(3))” after “877(a)”.

13 (C) Section 6039G(f) is amended by inserting
14 “or 877A(e)(2)(B)” after “877(e)(1)”.

15 (f) CLERICAL AMENDMENT.—The table of sections
16 for subpart A of part II of subchapter N of chapter 1
17 is amended by inserting after the item relating to section
18 877 the following new item:

 “Sec. 877A. Tax responsibilities of expatriation.”.

19 (g) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in this
21 subsection, the amendments made by this section
22 shall apply to expatriates (within the meaning of
23 section 877A(e) of the Internal Revenue Code of
24 1986, as added by this section) whose expatriation

1 date (as so defined) occurs on or after February 5,
2 2003.

3 (2) GIFTS AND BEQUESTS.—Section 102(d) of
4 the Internal Revenue Code of 1986 (as added by
5 subsection (b)) shall apply to gifts and bequests re-
6 ceived on or after February 5, 2003, from an indi-
7 vidual or the estate of an individual whose expatria-
8 tion date (as so defined) occurs after such date.

9 (3) DUE DATE FOR TENTATIVE TAX.—The due
10 date under section 877A(h)(2) of the Internal Rev-
11 enue Code of 1986, as added by this section, shall
12 in no event occur before the 90th day after the date
13 of the enactment of this Act.

Calendar No. 11

108TH CONGRESS
1ST SESSION

S. 351

[Report No. 108-3]

A BILL

To amend the Internal Revenue Code of 1986 to
improve tax equity for military personnel, and for
other purposes.

FEBRUARY 11, 2003

Read twice and placed on the calendar